

From: Jon Reades
To: Microsoft ATR
Date: 1/23/02 9:37am
Subject: Microsoft Settlement

To Whom It May Concern,

I am writing to express my concern over the proposed terms of settlement for the Microsoft antitrust trial. Based on my understanding of the proposed terms of settlement, it seems clear to me that Microsoft will remain free to both stamp out competition and extend its existing monopoly into new software segments.

My objections to the current proposed settlement fall into three broad categories:

1. Disclosure of existing APIs: the API disclosure terms appear to create financial and IP barriers that will prevent developers for what is currently Microsoft's *only* viable competition on the Intel platform (I speak, obviously, of the Linux operating system) from developing applications and products that are able to compete with Microsoft's own.

The definition of Middleware and Middleware Product allow Microsoft not only to arbitrarily evade the intent of the disclosure agreement through the use of alternate distribution channels (e.g. downloading) and restrictive EULAs (such as the ones that do not allow Microsoft products to be used either a) on a non-Microsoft platform, or b) in conjunction with open source or shared source software products), but it also neglects to include the key underpinnings of Microsoft's extant monopoly maintained in large part through products such as Office and Outlook.

2. Disclosure of new APIs: the settlement would do nothing to keep Microsoft from extending its Windows monopoly into new arenas via both its .NET initiative and its handheld and tablet-based computing initiatives. None of these are covered by the terms of the settlement, but it is clear from Microsoft's own marketing that they consider these areas to be crucial to their long term strategy.

If Microsoft comes to dominate the market for Internet-based services then not only will we have an important piece of the public infrastructure that is, again, dominated by a single corporation instead of a large body of competing companies cooperating through the auspices of a standards setting body, but it will be a piece of infrastructure bound to a single platform and operating system that has consistently demonstrated its disregard for both interoperability and security (see: Code Red, I Love You, Nimda...).

3. Licensing terms: the proposed settlement does nothing to protect anyone other than the largest 20 OEMs from retaliatory methods by Microsoft --

schools, state and local governments, mid- to large-size companies, and so on down.

Nothing prevents Microsoft from insisting that these bodies pay for the number of processors that theoretically *could* run Windows, nor from creating pricing schemes that lock out competing operating systems (such as has already been documented by Microsoft's new licensing terms in which the primary means of securing their best pricing schema is to promise never to use another operating system).

In addition, Microsoft would be able to construct pricing mechanisms that, while not directly affecting the pricing of Windows, would create incentives for OEMs to not supply additional OS options to consumers -- discounts could be applied on the basis of sales of a different product such as Office (again!) or their Tablet OS.

In short, I strongly urge the U.S. government to return to the negotiating table with a more stringent and coherent set of demands that will force Microsoft to open their operating system to competitors (who might work for corporations such as Sun or Apple, or who might be involved in the open source movement) in a way that will foster competition *not* through cosmetic changes (adding or removing icons from the desktop, for instance) but through interoperability that enables both non-Microsoft applications to interact effectively (i.e. to have the same access to the API as the MS applications teams) with the Windows OS, and non-Microsoft operating systems to interact effectively with Microsoft applications.

I am not proposing that Microsoft be forced to give away Word, Excel, or Visio (each of which does certain things very well), but I am proposing that they be forced to both a) make available the file formats of these industry-leading applications in a way that would enable competitors to arise, and b) that the APIs be published in a way that would enable competitors to support these applications on their own operating system implementations. Then, Microsoft would be forced to have both its applications and its operating system compete on their own merits (they're faster, more stable, respond more quickly, etc.) rather than on the basis of "Well, we really don't have any other choice since everyone else uses..."

Unless the proposed settlement is significantly strengthened I would predict that in less than ten years we'll be reading about another Microsoft anti-trust trial in the news, but by that time it will be too late to create competition in *any* of the fields that really matter.

Sincerely,

jon reades